



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VII  
726 MINNESOTA AVENUE  
KANSAS CITY, KANSAS 66101

June 30, 1998

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

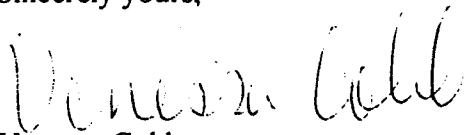
Dr. John Tyrell  
Tyrell Investments  
412 N. Franklin Street  
Manchester, IA 52057

Re: Hawkeye Castings, Inc., a/k/a Tyrell Investments, Inc.  
Docket No. VII-97-H-0008

Dear Mr. Tyrell:

Enclosed for your files is a copy of the executed Consent Agreement and Consent Order agreed upon by the above referenced and the Environmental Protection Agency.

Sincerely yours,

  
Venessa Cobbs  
Regional Hearing Clerk

Enclosure

cc: Winifred N. Okoye  
Assistant Regional Counsel  
U.S. Environmental Protection Agency



R00138033  
RCRA RECORDS CENTER

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VII

726 MINNESOTA AVENUE  
KANSAS CITY, KANSAS 66101

JUN 29 PM 4:25  
ENVIRONMENTAL PROTECTION  
AGENCY-REGION VII  
REGIONAL HEARING CLERK

99 JUN 30 PM 4:25

IN THE MATTER OF )

Hawkeye Castings, Inc., )  
a/k/a Tyrrell Investments, Inc. )  
Manchester, Iowa, )

Respondent )

Proceeding under 3008(a) of )  
the Resource Conservation and )  
Recovery Act of 1976, as )  
amended, 42 U.S.C. § 6928(a) )

**CONSENT AGREEMENT AND  
CONSENT ORDER**

) [RCRA] Docket No. VII-97-H-0008

**A. PRELIMINARY STATEMENT**

This proceeding was initiated pursuant to Section 3008(a) and (g) of the Resource Conservation and Recovery Act ("RCRA"), as amended, 42 U.S.C. § 6928(a) and (g). On or about October 31, 1997, the Complainant, the Director, Air, RCRA and Toxics Division, United States Environmental Protection Agency (EPA), Region VII proposed to issue a "Complaint, Compliance Order and Notice of Opportunity for Hearing" ("Complaint"), to Respondent, Hawkeye Castings Inc., also known as Tyrrell Investments Inc., (hereinafter referred to as "Respondent").

The Complaint proposes to assess a penalty against Respondent for the illegal disposal of waste mold sand from approximately June 1989 and June 1991, in violation of Section 3005(e) of RCRA, 42 U.S.C. § 6925(e), 40 C.F.R. Part 270. Respondent and Complainant subsequently entered negotiations in an attempt to resolve the said

allegations. This Consent Agreement and Consent Order set forth below is the result of such negotiations.

The authority to execute the Consent Agreement ("Agreement") has been delegated to the Regional Administrator by EPA delegation No. 8-9-B, dated March 20, 1985; and further delegated to the Director, Waste Management Division or designee, with concurrence of the Regional Counsel by EPA delegation No. R7-9-9-B, January 1, 1995. Authority to execute the Consent Order ("Order") has been delegated to the Regional Judicial Officer, by EPA Delegation No. R7-1-38, dated November 30, 1992. The purpose of this Agreement and Order is to settle the alleged violations in the Complaint.

#### **B. CONSENT AGREEMENT**

Based on the foregoing, and pursuant to Section 3008 of RCRA, 42 U.S.C. § 6928, and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and Revocation or Suspension of Permits, 40 C.F.R. § 22.18, it is hereby agreed and accepted by Respondent, that:

1. This Consent Agreement is being entered by the Parties in full settlement of, and release from, all civil liabilities and penalties that might have attached from the allegations in the Complaint. Respondent has read the Consent Agreement, finds it reasonable and consents to its issuance and its terms and explicitly waives its right to request a hearing on the Complaint, this Agreement, or the attached Consent Order.

2. For the purposes of this proceeding, Respondent a) admits the jurisdictional allegations of the Complaint, b) neither admits nor denies the factual allegations made in the Complaint, c) consents to the issuance of the Consent Order hereinafter recited and consents to the payment of a mitigated civil penalty as specified in paragraph "2" of this Consent Order.

3. Nothing in this Consent Agreement shall be construed as a release from, or to insulate Respondent from, any other action under any law and/or regulation administered by the U.S. Environmental Protection Agency other than those actions released under paragraph "1" above.

4. Each party shall bear its own costs and attorneys' fees in the action resolved by this Consent Agreement.

5. Each signatory of this Agreement certifies that he or she is fully authorized to enter into the terms of this Consent Agreement and Consent Order.

### **C. CONSENT ORDER**

Pursuant to the authority of Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), and according to the terms of the Consent Agreement set forth above, IT IS HEREBY ORDERED THAT:

1. The Respondent, in settlement of the allegations set forth in the Complaint shall pay a civil penalty for the violations alleged therein, in the amount of five thousand two hundred and ninety-five dollars (\$5,295.00). Payment shall be by cashier's or

certified check, made payable to the "Treasurer, United States of America," and be mailed to: EPA-Region VII (Regional Hearing Clerk), c/o Mellon Bank, P. O. Box 360748M, Pittsburgh, Pennsylvania 15251.

2. Respondent shall identify the check as **In the Matter of Hawkeye Castings, Inc., a/k/a Tyrrell Investments, Inc., RCRA Docket No. VII-97-H-0008.** A copy of the check shall be forwarded to Winifred N. Okoye, Office of Regional Counsel, Region VII, EPA, 726 Minnesota Avenue, Kansas City, Kansas 66101-2728.

3. Payment must be received at the above address on or before 30 calendar days after the effective date of the Consent Order (the date by which payment must be received shall hereafter be referred to as the "due date"). The effective date of this Order shall be the date on which the Respondent receives the Consent Order executed by the Regional Judicial Officer.

4. Failure to pay the penalty in full according to the above provisions, will result in the referral of this matter to the United States Department of Justice for collection.

5. If payment is not received on or before the due date, interest will be assessed at the annual rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717. The interest will be assessed on the overdue amount from the due date through the date of payment.

6. Within sixty (60) calendar days of the effective date of this Consent Order, Respondent shall submit to EPA a closure plan for the hazardous waste disposal area, [outside D008 hazardous waste disposal areas], generally identified in Attachment 1 to this Consent Order, in accordance with the requirements of 40 C.F.R. Part 264, Subparts F and G. Within thirty (30) days of receipt of EPA's disapproval with comments, of the closure plan, Respondent shall revise and resubmit the closure plan to address EPA's comments. EPA shall review the submittal and approve it or approve it with modifications. Within thirty (30) days after receiving EPA's approval with or without modifications, Respondent shall implement the approved closure plan, in accordance with the schedule contained therein.

- A. Within ninety (90) calendar days after the effective date of this Consent Order, Respondent shall establish, maintain, and submit to EPA documentation that Respondent has financial assurance for the RCRA closure as required by 40 C.F.R. Part 264 Subpart H.
- B. Within sixty (60) calendar days of completion of closure, in accordance with the approved closure plan, Respondent shall submit to EPA a certification of closure, as required by 40 C.F.R. Section 264.115.

- C. Respondent shall provide EPA thirty (30) days advance written notice before engaging in any field activity pursuant to the approved closure plan.
- D. The approved closure plan shall be incorporated into and become a part of this Consent Agreement and Consent Order.

7. All notices, whether oral or written, and all written documents required to be submitted to EPA pursuant to this Consent Order shall be sent to Mr. Brian Mitchell, RCRA Enforcement and State Programs Branch, Air, RCRA, and Toxics Division, EPA Region VII, 726 Minnesota Avenue, Kansas City, Kansas 66101, unless otherwise specified herein.

8. EPA reserves the right to enforce the terms of this Consent Order by initiating a judicial or administrative action pursuant to Section 3008 of RCRA, 42 U.S.C. § 6928, and by seeking penalties against Respondent in an amount not to exceed \$27,500 a day for each day of noncompliance with the terms of this Consent Order, or by seeking any other remedy allowed by law. Respondent reserves its right to defend against any such action subject to the limitations agreed to herein.

9. This Consent Order shall remain in full force and effect until Respondent has completed all closure activities required of Respondent to EPA's satisfaction. Respondent may apply to EPA for the termination of this Consent Order and EPA shall

terminate this Consent Agreement by notifying Respondent, in writing, only upon Respondent's demonstration of completion of all closure activities.

10. This executed Consent Agreement and Consent Order shall be filed with:

The Regional Hearing Clerk  
U.S. Environmental Protection Agency  
726 Minnesota Avenue  
Kansas City, Kansas 66101



For Respondent:

Hawkeye Castings, Inc.  
a/k/a Tyrell Investments, Inc.  
TYRRELL

Signature John S. Tyrell  
Name (Print/type) JOHN E TYRRELL  
Title (Print/type) PRESIDENT

6/15/98  
Date

For EPA:

U. S. ENVIRONMENTAL PROTECTION AGENCY

Art Spratlin  
Art Spratlin, Director  
Air, RCRA and Toxics Division

6/25/98  
Date

Winifred Okoye  
Winifred Okoye  
Assistant Regional Counsel

6/18/98  
Date

IT IS SO ORDERED. This Consent Order shall become effective immediately.

A handwritten signature in cursive script, reading "Robert J. Patrick", written over a horizontal line.

Robert J. Patrick  
Regional Judicial Officer

June 30, 1998  
Date